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PHILIPS INTELLECTUAL PROPERTY & STANDARDS			CHOW, LINI	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/562,896	<b>Applicant(s)</b> BAKX, JOHANNUS LEOPOLDUS
	<b>Examiner</b> Lixi Chow	<b>Art Unit</b> 2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 June 2008 and 24 January 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) 7-19 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-6 and 20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Group I in the reply filed on 6/30/08 is acknowledged.

Claims 7-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Groups, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/30/08.

***Claim Objections***

2. Claim 20 is objected to because of the following informalities: the word "previus" on line 3 of the claim should be --previous--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 20 recites the limitation "the other layers" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Furthermore, claim 20 recites the limitation "the OPC-areas are located in a Middle Zone for each of the other layers". However, claim 1 recites the limitation "OPC-area variably located on each of the layers". Claim 20 fails to further limit the subject matter in claim 1, for example, claim 1 recites that the each of the OPC-area is variably located on each layer, whereas claim 20

recites that each of the OPC-area is located in the Middle Zone. When all of the OPC-areas for all the layers are located in the Middle zones, they cannot constitute being variably located on each layer.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (US2003/0227846; hereafter Lee) in view of Hsiao (US 6,738,329).

Regarding claim 1:

Lee discloses a recording method for recording information on a dual layer recordable disk (see Fig. 1), the method comprising a step of performing an Optimum Power Control (OPC) procedure for determining an actual optimum writing power, said Optimum Power Control procedure being performed in OPC-areas on the disk (see Fig. 2; test zone corresponds to OPC-area; and each layer includes two test zones), characterized in that the Optimum Power Control procedure is performed in an OPC-area located on each of the dual layer disk (see Fig. 1; test writing can be performed on either one of the layers).

Lee fails to disclose that the Optimum Power Control procedure is performed in an OPC-area variably located on at each of the layers; however, Hsiao discloses a recording method for recording information on a recordable disk, the method comprising a step of performing an

Optimum Power Control procedure for determining an optimum writing power, said Optimum Power Control procedure being performed in an OPC-area on the disk, characterized in that the Optimum Power Control procedure is performed in an OPC-area variably located on the disk (see col. 5, lines 38-46).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method of Lee to incorporate a method of performing OPC procedure in an area that is variably located on the disk as suggested by Hsiao. The motivation to carry out the modification is that a more desirable optimum writing power can be obtained for a particular location of the disk.

Regarding claim 4:

Lee discloses the recording method, comprising a further step of performing a further Optimum Power Control (OPC) procedure, said further Optimum Power Control procedure being performed in a further OPC-area located at a fixed position on at least one of the layers of the dual layer disk and reserved for use by the further Optimum Power Control procedure (see Figs. 1 and 2; LO area on layer 0 corresponds to a further OPC-area).

Regarding claim 5:

Lee discloses the recording method as claimed in claim 4, wherein the further Optimum Power Control procedure is performed in a first fixed OPC-area located on a first layer (L0) of the dual layer disk and in a second fixed OPC-area located on a second layer (L1) of the dual layer disk (see Figs. 1 and 2; LO area in layer 0 corresponds to a first fixed OPC-area and LI area in layer 1 corresponds to a second fixed OPC-area).

Regarding claim 6:

Lee discloses a recording device for recording information on a dual layer recordable disk adopted for using the methods according to claim 1 (see Fig. 6).

7. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Hsiao as applied to claim 1 above, and further in view of Ueda et al. (US 2003/0137910; hereafter Ueda).

Regarding claim 2:

The combination of Lee and Hsiao discloses all the features as claimed in claim 1. However, neither Lee nor Hsiao discloses that the location of the OPC-area depends on the amount of information to be recorded. On the other hand, Ueda discloses a recording method, wherein the location of at least one of a replacement areas on the layers of a dual layer disk depends on the amount of information to be recorded on the disk (see Fig. 11, 19, 21 or 22).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the teaching of Lee, Hsiao and Ueda, since Ueda shows a more effective way of using the disk by having the location of the replacement area depends on the amount of the information to be recorded. Note that the distance between the replacement area and the defect area is greatly reduced; therefore a more effective way of using the disk is realized.

Regarding claim 3:

Lee discloses a recording method, wherein at least one of the OPC-areas is located in the Middle Zone of the at least one of the layers of the dual layer disk (see Figs. 1 and 2; LO area of layer 0 and LI area of layer 1 correspond to the middle zone area).

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8. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Hsiao as applied to claim 1 above, and further in view of Applicant's Admitted Prior Art (hereafter AAPA).

Lee discloses the method, wherein the OPC-areas are located in a Middle Zone for each of the layers (see Fig. 1 and 2; the Middle Zone corresponds to the zone located on the outer radius of the disc, i.e., the LO area of the layer 0 and the LI area of the layer 1).

Although Lee does not disclose that the Middle Zones extend 1 mm beyond the close radius of a last written location of the previous layer; however, AAPA discloses that such feature is standard. In other word, AAPA discloses that the Middle Zones extend 1 mm beyond the close radius of the last written location of the previous layer is known and standard practice.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to adopt this standardize practice to provide Middle Zone such that they are extended 1 mm beyond the last written location. One of ordinary skill in the art would have been motivated to do this because a sufficient buffer zone between recorded region and non-recorded region can be realized to thereby provide a high quality recording medium.

*Response to Arguments*

9. Applicant's arguments filed 1/24/08 have been fully considered but they are not persuasive.

In regards to claim 1, Applicant argues that the combination of Lee and Hsiao do not discloses or suggests "plural OPC-areas being formed on the disk with the Optimum Power Control procedure being performed in an OPC-area variably located on each of the layers of the dual layer disk". However, Examiner respectfully disagrees." Mainly, Applicant fails to explain

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why the above noted features are not disclosed by either one of the references, nor Applicant pointed out the non-obviousness to combine the teachings. The mere statement of the references not teaching the claimed invention is not sufficient to overcome the rejection.

In regards to claim 2, Applicant argues that “Ueda et al. do not disclose or suggest any correlation between Optimum Power Calibration areas with defect management areas or that the two can be interchanged”. However, the purpose of citing Ueda reference in the rejection is not to show whether there is a correlation between the Optimum Power Calibration areas and the defect management/replacement areas. Instead, Examiner relies on Ueda et al. to teach that the location of operation-designated area depends on the amount of the information to be recorded on the disk. Certainly, OPC-area is an area that is designated for Optimum Power Calibration, and replacement area is an area that is designated for recording replacement data. These areas do have common characteristic such as they are for performing certain operation that is pre-designated. Since, Ueda et al. show that it is advantageous to locate replacement area in dependence of the amount of information to be recorded (see rejection above); one of ordinary skill in the art would have been motivated to adopt that technique for the Optimum Power Control procedure by locating the OPC-areas in the similar manner.

Accordingly, claim 1 and 4-6 are not patentable over Lee and Hsiao, and claim 2 and 3 are not patentable over Lee, Hsiao and Ueda.

#### *Conclusion*

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lixi Chow whose telephone number is 571-272-7571. The examiner can normally be reached on Mon-Fri, 8:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571-272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lixi Chow/  
10.09.08

/Wayne Young/  
Supervisory Patent Examiner, Art Unit 2627